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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/538,351	03/29/2000	Katherine H. Guo	554-224 (Guo 3-3-2-22-2)	6141
26291	7590	01/14/2004	EXAMINER	
MOSER, PATTERSON & SHERIDAN L.L.P. 595 SHREWSBURY AVE FIRST FLOOR SHREWSBURY, NJ 07702			ENGLAND, DAVID E	
			ART UNIT	PAPER NUMBER
			2143	12
DATE MAILED: 01/14/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/538,351	GUO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	David E. England	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 October 2003.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1 – 10, 13, 31 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 – 10, 13, 31 and 32 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)                    4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    5) Notice of Informal Patent Application (PTO-152)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ .                    6) Other: \_\_\_\_\_ .

## **DETAILED ACTION**

1. Claims 1 – 10, 13, 31 and 32 are presented for examination.

### ***Claim Objections***

1. Claim 31 is objected to because of the following informalities: The limitation of, “as the sum of a plurality of helper hotness ratings,” appears to be stated twice and next to each other making the claim misunderstanding. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 1 – 10, 13, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eyal U.S. Patent No. 6484199 in view of Herz U.S. Patent No. 6029195.
4. As per claim 1, Eyal teaches a method for distributing a streaming multimedia (SM) object in a network having a content server which hosts SM objects for distribution over said network through a plurality of helpful servers (HSs) to a plurality of clients, said method comprising:

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5. calculating at said content server a server hotness rating for said SM objects hosted thereon, (e.g. col. 12, lines 37 – 67 & col. 30, line 13 – col. 31, line 63);

6. performing a categorization process, wherein each of said SM objects hosted by said content server are categorized into one of a plurality of server hotness categories based on each of said SM object's calculated server hotness rating, (e.g. col. 12, lines 37 – 67 & col. 30, line 13 – col. 31, line 63); but does not specifically teach multicasting from said content server at least one of said SM objects hosted thereon to a fraction of said plurality of HSs in the network, said fraction being determined according to said SM object's hotness category. Herz teaches multicasting from said content server at least one of said SM objects hosted thereon to a fraction of said plurality of HSs in the network, said fraction being determined according to said SM object's hotness category, (e.g. col. 45, lines 13 – 33). It would have been obvious to one skilled in the art at the time the invention was made to combine Herz with Eyal because it would be more efficient for a system to multicast data to a plurality of servers that could handle multiple users in a system that has potential to grow with more users and more media data that is being produced, (i.e. records and movies).

7. As per claim 2, Eyal teaches the step of associating a fraction to each of said plurality of predetermined hotness categories, (e.g. col. 8, line 46 – col. 25 & col. 26, lines 19 – 46 & col. 12, lines 37 – 67), but does not teach multicasting said SM objects. Herz teaches multicasting said SM objects, (e.g. col. 45, lines 13 – 33). It would have been obvious to one skilled in the art at the time the invention was made to combine Herz with Eyal because of similar reasons stated above.

8. As per claim 3, Eyal teaches the server hotness rating for each of said SM object's hosted by said content server is calculated as the sum of a plurality of helper hotness ratings, wherein the helper hotness rating for an SM object hosted by one of said plurality of HSs is defined as a total number of client requests for said SM object requested from said one of said plurality of HSs divided by a time span in which said client requests are received, (e.g. col. 30, line 13 – col. 31, line 63).

9. As per claim 4, Eyal teaches each of said plurality of server hotness categories are defined by a lower server hotness rating value and an upper server hotness rating value, (e.g. col. 30, line 13 – col. 31, line 63).

10. Claims 5 – 10, 13, 31 and 32 are rejected for similar reasons as stated above.

*Response to Arguments*

11. Applicant's arguments filed 10/28/2003 have been fully considered but they are not persuasive.

12. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

13. If the Applicant wishes to challenge the validity of the provisional application related to the Patent utilized as prior art, it is the Applicant's responsibility to provide and specifically point out where in the provisional application the art is not analogous with the Patent utilized in the rejection and in the Applicant's application.

*Conclusion*

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. England whose telephone number is 703-305-5333. The examiner can normally be reached on Mon-Thur, 7:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is none.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is none.

David E. England  
Examiner  
Art Unit 2143

De 



DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100